

EXHIBIT A

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WEISSBERG
& GARIN LLP**
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Alexandra H. Deal
Paul S. Sennott
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Of Counsel
John Taylor Williams

December 6, 2010

BY CERTIFIED MAIL - Certified Mail # 70062150000075314218

Perri C. Petricca, President and Agent for Service of Process
Berkshire Concrete Corp.
Unistress Corp.
550 Cheshire Road
Pittsfield, MA 01201

BY CERTIFIED MAIL - Certified Mail # 70062150000075314201

Perri C. Petricca, President and Agent for Service of Process
Berkshire Concrete Corp.
Unistress Corp.
77 Baker Street
Lanesborough, MA 01237

Re: 60-Day Notice of Violations and Intent to File Suit Regarding Noncompliance
with Federal Clean Water Act's Industrial Stormwater Discharge Requirements

Dear Mr. Petricca:

This office represents Clean Water Action, a national non-profit citizens' organization working for clean, safe and affordable water, prevention of health-threatening pollution, creation of environmentally-safe jobs and businesses, and empowerment of people to make democracy work. Clean Water Action has over 750,000 members nationally, more than 50,000 of whom reside in Massachusetts.

We write to give notice that Clean Water Action intends to file a civil action in the United States District Court for the District of Massachusetts under Section 505 of the Federal Clean Water Act (the "Act") against Berkshire Concrete Corp. and Unistress (jointly referred to hereafter as "Berkshire Concrete"). The subject of the action will be

Berkshire Concrete's failure to comply with stormwater pollution control requirements of the Act applicable to its Pittsfield facility (the "Facility") at which the company manufactures precast and prestressed concrete components, mines and processes sand and stone, and produces ready-mix concrete. The Facility, which has its mailing address at 550 Cheshire Road, is located near the Pittsfield – Lanesborough border and comprises 162 acres as described in paragraph C(3) and (4) of Berkshire Concrete's April 17, 2009 Notice of Intent Form, which is attached as Exhibit A hereto. Stormwater runoff from the Facility is discharged into municipal storm drains and other tributaries leading to Cheshire Reservoir and Unkamet Brook.

Clean Water Action will ask the Court to ensure Berkshire Concrete's future compliance with the Act, assess civil penalties in an appropriate amount,¹ award plaintiff litigation costs, including attorney and expert fees, and award any other relief the Court deems appropriate. Clean Water Action's complaint will be filed a minimum of 60 days after the postmark date of this letter. This is a formal 60-day notice of intent to sue that is being served pursuant to 40 C.F.R., Part 135.

This notice is being provided by:

Cindy Luppi, New England Regional Co-Director
Clean Water Action
262 Washington Street, Suite 301
Boston, MA 02108
(617) 338-8131
(617) 335-6449 (fax)

Counsel for Clean Water Action in this case is:

Nora J. Chorover
Stern, Shapiro, Weissberg & Garin, LLP
90 Canal Street, Suite 500
Boston, MA 02114
(617) 742-5800
(617) 742-5858 (fax)

BERKSHIRE CONCRETE'S VIOLATIONS AND DATES OF VIOLATIONS

Berkshire Concrete has violated and continues to violate the terms and conditions of the General Permit as follows and as set forth on a Table attached as Exhibit B hereto.²

¹ The Act authorizes the Court to assess a penalty of up to \$32,500 per day for each violation occurring up to or including January 12, 2009, *see* 33 U.S.C. § 1319(d), 69 Fed. Reg. 7121 (Feb. 13, 2004), and \$37,500 per day of violation for violations after that date. *See* 73 Fed. Reg. 75340 (Dec. 11, 2008).

² Clean Water Action believes that violations have occurred on the dates identified in this letter and on Exhibit B, and not just on rain days. However, to the extent it is determined that rain days are relevant in determining the dates of violations, such rain dates through July 2010 are set forth on Exhibit C hereto. The complaint, when filed, will set forth additional rain dates since July 2010.

The Complaint, when filed, will set forth additional days of violations that occur between the date of this letter and the date on which the Complaint is filed.

- A. Failure to Monitor for and Report on Compliance with Effluent Limitations. Berkshire Concrete is required to monitor for and report on its compliance with effluent limitations for TSS and pH in stormwater discharges from material storage piles in its concrete manufacturing processes.³ This monitoring was to occur once annually during each of the permit's reporting years, and the reporting was to occur 30 days following receipt of monitoring results.⁴ Berkshire Concrete failed to comply with these monitoring and reporting requirements.
- B. Failure to Monitor for and Report on Benchmark Parameters. Berkshire Concrete is required to monitor for and report on benchmark parameters applicable specifically to concrete products manufacturers⁵ and mineral mining and dressing facilities.⁶ Accordingly, it was required to monitor and report on Nitrate plus Nitrogen (sand and gravel mining), TSS (both sectors), and Iron (concrete product manufacturers). This monitoring was to occur for the first four quarters of the permit term. The reporting was to occur 30 days following receipt of monitoring results.⁷ Berkshire Concrete failed to comply with these monitoring and reporting requirements.
- C. Failure to Submit to EPA Annual Reports. Berkshire Concrete was required by the permit to prepare and submit to EPA annual reports that include findings from the annual comprehensive site inspections and documentation of corrective actions.⁸ The company did not submit to EPA an annual report for the first or second year of the permit term.
- D. Failure to Conduct and Document Required Inspections. On information and belief, Clean Water Action alleges that Berkshire Concrete has not complied with the permit's requirements to conduct required inspections, including routine facility inspections (at least quarterly),⁹ quarterly visual inspections (at least quarterly),¹⁰ and annual comprehensive site inspections.¹¹ This belief is based on the fact that Berkshire Concrete has not submitted to EPA any annual reports documenting the annual comprehensive site inspection.
- E. Failure to Reduce and/or Eliminate Pollutants to the Extent Achievable. Berkshire Concrete has not complied with the permit requirement to reduce

³ General Permit, pg. 57.

⁴ General Permit, pg. 41.

⁵ General Permit, pgs. 56-57.

⁶ General Permit, pg. 84-85.

⁷ General Permit, pg. 41.

⁸ General Permit, pg. 41.

⁹ General Permit, pg. 20.

¹⁰ General Permit, pgs. 21-22.

¹¹ General Permit, pgs. 24-25.

and/or eliminate pollutants to the extent achievable using control measures (including best management practices) that are technologically available and economically practicable and achievable in light of best industry practice.¹² Clean Water Action sets forth this violation on information and belief based on the above monitoring, reporting and inspection violations, as well as visual observations of exposed materials at the site.

- F. Failure to Implement Sector Specific Best Management Practices for each of Its Sectors. Clean Water Action believes that Berkshire Concrete has not complied with sector specific best management practices for concrete products manufacturers¹³ and mineral mining and dressing facilities.¹⁴ This belief is based on the above monitoring, reporting and inspection violations, as well as visual observations of exposed materials at the site.

CONCLUSION

Clean Water Action believes this Notice of Violations and Intent to File Suit sufficiently states the basis for a civil action. During the 60-day notice period, we would be willing to discuss effective remedies for the violations noted in this letter that may avoid the necessity of litigation. If you wish to pursue such discussions, please have your attorney contact Nora Chorover at 617-742-5800 within the next 20 days so that negotiations may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,



Nora J. Chorover, Attorney for
CLEAN WATER ACTION

¹² General Permit, pg. 12.

¹³ General Permit, pgs. 56-57.

¹⁴ General Permit, pgs. 79-84.

Perri C. Petricca
December 6, 2010
Page 5 of 5

cc: (by certified mail)

Curt Spalding, Regional Administrator
EPA New England, Region 1,
1 Congress Street, Suite 1100
Boston MA 02114-2023
Certified Mail #: 7006 2150 0000 7531 4195

Lisa Jackson, Administrator
US EPA Headquarters
Ariel Rios Building
1200 Pennsylvania Ave., N.W.
Washington, DC 20460
Certified Mail #: 7006 2150 0000 7531 4188

Eric Holder, Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
Certified Mail #: 7006 2150 0000 7531 4225

Laurie Burt, Commissioner
Massachusetts Department of Environmental Protection
One Winter Street
Boston, MA 02108
Certified Mail #: 7006 2150 0000 7531 4164

EXHIBIT A

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, DC 20460
NOTICE OF INTENT (NOI) FOR STORMWATER DISCHARGES ASSOCIATED WITH
INDUSTRIAL ACTIVITY UNDER THE NPDES MULTI-SECTOR GENERAL PERMITForm Approved
OMB No. 2040-0086

Submission of this completed Notice of Intent (NOI) constitutes notice that the operator identified in Section B of this form requests authorization to discharge pollutants to waters of the United States from the facility or site identified in Section C under EPA's NPDES Stormwater Multi-Sector General Permit (MSGP) for industrial stormwater. Submission of this NOI constitutes your notice to EPA that the facility identified in Section C of this form meets the eligibility conditions of Part 1.1 of the MSGP. Please read and make sure you comply with all eligibility requirements, including the requirement to prepare a stormwater pollution prevention plan. Refer to the instructions at the end of this form to complete your NOI.

**A. Permit
Number:**

MA R 050000

(see Appendix C of the MSGP for the list of
eligible permit numbers)

Tracking Number (EPA Use Only):

MAR05D508

B. Facility Operator Information

1. Name: BERKSHIRE COUNTY CONCRETE CORP

2. IRS Employer Identification Number (EIN): -

3. Mailing Address:

a. Street: PO BOX 1145

b. City: PITTSFIELD

c. State: MA d. Zip Code: 01202 -

e. Phone: 413 - 499 - 1441

f. Fax
(optional): - -

g. E-mail: RON.DEANGELIS@PETRICCA.COM

C. Facility Information

1. Facility Name: BERKSHIRE COUNTY CONCRETE

2. Have stormwater discharges from your site been covered previously under an NPDES permit? ☒ YES ☐ NOa. If yes, provide the Tracking Number if you had coverage under EPA's MSGP 2000
or the NPDES permit number if you had coverage under an EPA individual permit.

MAR05B949

b.1 If no, was your facility in operation and discharging stormwater prior to October 30, 2005? ☐ YES ☐ NOb.2 If no to C.2.b.1, did your facility commence discharging after October 30, 2005 and before January 5, 2009? ☐ YES ☐ NO

3. Location Address:

a. Street: 550 CHESHIRE ROAD ROUTE 8

b. City: PITTSFIELD

c. County or similar government subdivision: BERKSHIRE

d. State: MA e. Zip Code: 01202 -

f. Latitude: (use
any one of the
three formats
provided.)1. 42° 29' 14" N (degrees, minutes, seconds)
2. ° ' " N (degrees, minutes, decimal)
3. ° N (degrees decimal)g. Longitude:
(use any of
these 3
formats)1. 073° 12' 08" W (degrees, minutes, seconds)
2. ° ' " W (degrees, minutes, decimal)
3. ° W (degrees decimal)h. Lat/Long Data Source: ☐ USGS topographic map ☒ EPA web site ☐ GPS ☐ Other:

If you used a USGS topographic map, what was the scale?

4. Estimated area of industrial activity at your site exposed to stormwater: 162 (acres)

5. Is this a federal facility? ☐ YES ☒ NO6. Is your facility located on Indian Country lands? ☐ YES ☒ NO

If yes, name of reservation, or if not part of a reservation, put "Not Applicable:"

D. Discharge information

1. Does your facility discharge stormwater into a Municipal Separate Storm Sewer System (MS4)? ☐ YES ☒ NO

If yes, name of MS4 operator: _____

2. Receiving Waters and Wetlands (**Note:** If additional space is needed for this question, fill out Attachment 1.)

a. What is the name(s) of your receiving water(s) that receive stormwater directly and/or through an MS4)? If your receiving water is impaired then identify the name of the impaired segment, if applicable, in parentheses following the receiving water name.	b. Are any of your discharges directly into any segment of an "impaired" water?	If you answered yes to question D.2.b, then answer the following three questions:		
		b.1. What pollutant(s) are causing the impairment?	b.2. Are the pollutant(s) causing the impairment present in your discharge?	b.3. Has a TMDL been completed for the pollutant(s) causing the impairment?
CHESHIRE RESERVIOR	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
UNKAMET BROOK	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
	<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
	<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
	<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
	<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
	<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
	<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
	<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
	<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
	<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
	<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
	<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
	<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO

3. Water Quality Standards (for new dischargers only)

a. Are any of your discharges into any portion of a receiving water designated by the state or tribal authority under its antidegradation policy as a Tier 2 (or Tier 2.5) water (water quality exceeds levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water)? ☐ YES ☐ NO

b. Has the receiving water(s) been designated by the state or tribal authority under its antidegradation policy as a Tier 3 water (Outstanding Natural Resource Water)? ☐ YES ☐ NO

4. Federal Effluent Limitation Guidelines and Sector-Specific Requirements

a. Are you requesting permit coverage for any stormwater discharges subject to effluent limitation guidelines? ☒ YES ☐ NO

b. If yes, which effluent limitation guidelines apply to your stormwater discharges?

40 CFR Part/Subpart	Eligible Discharges	Affected MSGP Sector	Check if Applicable
Part 411, Subpart C	Runoff from material storage piles at cement manufacturing facilities	E	<input checked="" type="checkbox"/>
Part 418 Subpart A	Runoff from phosphate fertilizer manufacturing facilities that comes into contact with any raw materials, finished product, by-products or waste products (SIC 2874)	C	<input type="checkbox"/>
Part 423	Coal pile runoff at steam electric generating facilities	O	<input type="checkbox"/>
Part 429, Subpart I	Discharges resulting from spray down or intentional wetting of logs at wet deck storage areas	A	<input type="checkbox"/>
Part 436, Subpart B, C, or D	Mine dewatering discharges at crushed stone mines, construction sand and gravel mines, or industrial sand mines	J	<input type="checkbox"/>
Part 443, Subpart A	Runoff from asphalt emulsion facilities	D	<input type="checkbox"/>
Part 445, Subparts A & B	Runoff from hazardous waste and non-hazardous waste landfills	K, L	<input type="checkbox"/>

c. If you are a Sector S (Air Transportation) facility, do you anticipate using more than 100,000 gallons of glycol-based deicing/anti-icing chemicals and/or 100 tons or more of urea on an average annual basis? ☐ YES ☒ NO

5. Identify the 4-digit Standard Industrial Classification (SIC) code or 2-letter Activity Code that best represents the products produced or services rendered for which your facility is primarily engaged, as defined in MSGP:

Primary SIC Code: 3271 OR Primary Activity Code:

6. Identify the applicable sector(s) and subsector(s) of industrial activity, including co-located industrial activity, for which you are requesting permit coverage:

a. Sector E Subsector 2 b. Sector Subsector c. Sector Subsector

d. Sector Subsector e. Sector Subsector f. Sector Subsector

7. a. Is your site presently inactive and unstaffed? ☐ YES ☒ NO

1. If yes, is your site expected to be inactive and unstaffed for the entire permit term? ☐ YES ☐ NO

2. If you select "no" in 7.b.1 above, then indicate the length of time that you expect your facility to be inactive and unstaffed _____

E. Stormwater Pollution Prevention Plan (SWPPP) Contact Information

1a. SWPPP Contact Name:

RON DEANGELIS

b. Phone:

- - - - -

Ext.

- - - - -

c. E-mail:

ron.deangelis@petricca.com

2. URL of SWPPP (if applicable):

F. Endangered Species Protection

1. Using the instructions in Appendix E of the MSGP, under which criterion listed in Part 1.1.4.5 are you eligible for coverage under this permit?

☒ A ☐ B ☐ C ☐ D ☐ E ☐ F

2. If you select criterion E from Part 1.1.4.5:

a. What federally-listed species or federally-designated critical habitat are in your "action area?"

b. List the pollutants expected to be present in your discharge

c. If you are an existing discharger, do you have effluent monitoring data from EPA's MSGP 2000, or another previous NPDES permit? ☐ YES ☐ NOc.1 If no, why not? ☐ No monitoring required for my sector ☐ Inactive/unstaffed site ☐ Other

c.2 Do you have any other data characterizing pollutants in your stormwater (describe)?

c.3 If you have benchmark monitoring data, did you exceed any of the applicable benchmarks? ☐ YES ☐ NOc.4 Did you exceed any applicable effluent limitation guideline or cause or contribute to an exceedance of a State or Tribal water quality standard? ☐ YES ☐ NO

c.5 If you answered "yes" to either question F.2.c.3 or F.2.c.4 above, for what pollutant(s)?

d. Attach documentation supporting criterion E eligibility. Documentation should address species and habitat listed in F.2.a and the potential effects of pollutants listed in F.2.b (including any monitoring data for these pollutants) on the listed species and habitat.

3. If you select criterion F from Part 1.1.4.5, provide the operator's NPDES Tracking Number under which you are certifying eligibility:

- - - - -

G. Historic Preservation

Using the instructions in Appendix F of the MSGP, under which criterion listed in Part 1.1.4.6 are you eligible for coverage under this permit?

☒ A ☐ B ☐ C ☐ D**H. Certifier Name and Title**

I certify under penalty of law that I meet the eligibility conditions of this permit and that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, I certify that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I certify that I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Print Name:

RON DEANGELIS

Title:

- - - - -

Signature: RON DEANGELIS

Date: 04/17/09

E-mail: RON.DEANGELIS@PETRICCA.COM

NOI Preparer (Complete if NOI was prepared by someone other than the certifier)

Prepared by:

STEVEN A MACK

Organization:

- - - - -

Phone:

- - - - -

Ext.

- - - - -

E-mail: smack@foresightland.com

Attachment 1. (Fill in as necessary if more space is required for D.2 a-e)

[illegible]

EXHIBIT B
BERKSHIRE CONCRETE'S AND UNISTRESS' PERMIT VIOLATIONS

Sector	Quarter	Type of Violation	Parameter	Beginning Date of Violation	Earliest End Date of Violation
E2: Concrete and gypsum Product Manufacturers J1: Sand and Gravel Mining	1-4	Failure to Monitor Effluent Limitation	TSS	March 31, 2010	The present
E2: Concrete and gypsum Product Manufacturers J1: Sand and Gravel Mining	1-4	Failure to Report Effluent Limitation	TSS	April 30, 2010	The present
E2: Concrete and gypsum Product Manufacturers J1: Sand and Gravel Mining	1-4	Failure to Monitor Effluent Limitation	pH	March 31, 2010	The present
E2: Concrete and gypsum Product Manufacturers J1: Sand and Gravel Mining	1-4	Failure to Report Effluent Limitation	pH	April 30, 2010	The present
E2: Concrete and gypsum Product Manufacturers	1	Failure to Monitor Benchmark	Iron	June 30, 2009	The present
E2: Concrete and gypsum Product Manufacturers	1	Failure to Report Benchmark	Iron	July 30, 2009	The present
E2: Concrete and gypsum Product Manufacturers	2	Failure to Monitor Benchmark	Iron	September 30, 2009	The present
E2: Concrete and gypsum Product Manufacturers	2	Failure to Report Benchmark	Iron	October 30, 2009	The present
E2: Concrete and gypsum Product Manufacturers	3	Failure to Monitor Benchmark	Iron	December 31, 2009	The present
E2: Concrete and gypsum Product Manufacturers	3	Failure to Report Benchmark	Iron	January 31, 2010	The present
E2: Concrete and gypsum Product Manufacturers	4	Failure to Monitor Benchmark	Iron	March 31, 2010	The present
E2: Concrete and gypsum Product Manufacturers	4	Failure to Report Benchmark	Iron	April 30, 2010	The present

Sector	Quarter	Type of Violation	Parameter	Beginning Date of Violation	Earliest End Date of Violation
E2: Concrete and gypsum Product Manufacturers J1: Sand and Gravel Mining	1	Failure to Monitor Benchmark	TSS	June 30, 2009	The present
E2: Concrete and gypsum Product Manufacturers J1: Sand and Gravel Mining	1	Failure to Report Benchmark	TSS	July 30, 2009	The present
E2: Concrete and gypsum Product Manufacturers J1: Sand and Gravel Mining	2	Failure to Monitor Benchmark	TSS	September 30, 2009	The present
E2: Concrete and gypsum Product Manufacturers J1: Sand and Gravel Mining	2	Failure to Report Benchmark	TSS	October 30, 2009	The present
E2: Concrete and gypsum Product Manufacturers J1: Sand and Gravel Mining	3	Failure to Monitor Benchmark	TSS	December 31, 2009	The present
E2: Concrete and gypsum Product Manufacturers J1: Sand and Gravel Mining	3	Failure to Report Benchmark	TSS	January 31, 2010	The present
E2: Concrete and gypsum Product Manufacturers J1: Sand and Gravel Mining	4	Failure to Monitor Benchmark	TSS	March 31, 2010	The present
E2: Concrete and gypsum Product Manufacturers J1: Sand and Gravel Mining	4	Failure to Report Benchmark	TSS	April 30, 2010	The present
J1: Sand and Gravel Mining	1	Failure to Monitor Benchmark	Nitrate plus Nitrogen	June 30, 2009	The present
J1: Sand and Gravel Mining	1	Failure to Report Benchmark	Nitrate plus Nitrogen	July 30, 2009	The present
J1: Sand and Gravel Mining	2	Failure to Monitor Benchmark	Nitrate plus Nitrogen	September 30, 2009	The present
J1: Sand and Gravel Mining	2	Failure to Report Benchmark	Nitrate plus Nitrogen	October 30, 2009	The present

Sector	Quarter	Type of Violation	Parameter	Beginning Date of Violation	Earliest End Date of Violation
J1: Sand and Gravel Mining	3	Failure to Monitor Benchmark	Nitrate plus Nitrogen	December 31, 2009	The present
J1: Sand and Gravel Mining	3	Failure to Report Benchmark	Nitrate plus Nitrogen	January 31, 2010	The present
J1: Sand and Gravel Mining	4	Failure to Monitor Benchmark	Nitrate plus Nitrogen	March 31, 2010	The present
J1: Sand and Gravel Mining	4	Failure to Report Benchmark	Nitrate plus Nitrogen	April 30, 2010	The present
E2: Concrete and gypsum Product Manufacturers J1: Sand and Gravel Mining	Permit Year 1	Failure to Submit Annual Report		November 15, 2009	The present
E2: Concrete and gypsum Product Manufacturers J1: Sand and Gravel Mining	Permit Year 2	Failure to Submit Annual Report		November 15, 2010	The present
E2: Concrete and gypsum Product Manufacturers J1: Sand and Gravel Mining		Failure to Conduct and Document Required Inspections		September 29, 2008	The present
E2: Concrete and gypsum Product Manufacturers J1: Sand and Gravel Mining		Failure to Reduce and/or Eliminate Pollutants to Extent Achievable		September 29, 2008	The present
E2: Concrete and gypsum Product Manufacturers J1: Sand and Gravel Mining		Failure to Implement Best Management Practices		September 29, 2008	The present

EXHIBIT C

EXHIBIT C
DAYS BETWEEN
OCTOBER 2008 AND JULY 2010
ON WHICH STORMWATER FROM FACILITY
DISCHARGED TO WATERS OF THE UNITED STATES

<u>July 2010</u>	<u>January 2010</u>	<u>September 2009</u>	<u>May 2009</u>	<u>December 2008</u>
11	1	12	2	1
18	3	27	6	5
20	4	28	7	10
22	18		9	11
24	25	<u>August 2009</u>	10	12
25	26	1	15	17
	29	13	17	20
<u>June 2010</u>		22	27	22
2	<u>December 2009</u>	23	28	25
7	1	24	29	27
10	3	29		28
13	4		<u>April 2009</u>	
17	6	<u>July 2009</u>	2	<u>November 2008</u>
23	9	2	4	9
25	10	3	5	14
	14	8	7	16
<u>May 2010</u>	26	12	11	25
8	27	17	21	26
9	29	18		
12		22	<u>March 2009</u>	<u>October 2008</u>
14	<u>November 2009</u>	24	3	17
19	1	25	9	26
	6	27	10	29
<u>April 2010</u>	14	28	11	
9	15	29	27	
17	20	30	30	
27	21		31	
29	28	<u>June 2009</u>		
		10	<u>February 2009</u>	
<u>March 2010</u>	<u>October 2009</u>	12	4	
14	3	14	12	
15	4	15	13	
16	6	16	19	
23	7	18	20	
24	8	19	23	
26	10	21	27	
29	13	22	28	
30	24	26		
31	25	28	<u>January 2009</u>	
	28		1	
<u>February 2010</u>	29		7	
17			8	
24			11	
25			19	
26			29	
27			31	

**STERN
SHAPIRO
WEISSBERG
& GARIN LLP**
attorneys at law

Max D. Stern
Jonathan Shapiro
Lynn G. Weissberg
Patricia Garin
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Alexandra H. Deal
Paul S. Sennott
Amanda Vanderhorst

Of Counsel
John Taylor Williams

December 28, 2010

BY CERTIFIED MAIL

Perri C. Petricca, President and Agent
for Service of Process
Berkshire Concrete Corp.
Unistress Corp.
550 Cheshire Road
Pittsfield, MA 01201
Certified No.: 706 2150 0000 7531 4157

Perri C. Petricca, President and Agent
for Service of Process
Berkshire Concrete Corp.
Unistress Corp.
77 Baker Street
Lanesborough, MA 01237
Certified No.: 7006 2760 0001 2932
5314

Re: Supplement to 60-Day Notice of Violations

Dear Mr. Petricca:

This letter is to supplement a notice of violations that we sent to you on December 6, 2010. This is to clarify that the violations set forth in the December 6th letter and on its Exhibit A concern the Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (the "General Permit"), which can be viewed on EPA's web site, at http://www.epa.gov/npdes/pubs/msgp2008_finalpermit.pdf.¹

Sincerely,


Nora J. Chorover, Attorney for
CLEAN WATER ACTION

¹ The General Permit was first issued in 1995 and was reissued in 2000 and 2008. The 2008 Permit does not include significant changes to relevant provisions. See 60 Fed. Reg. 50804 (Sept. 29, 1995); 65 Fed. Reg. 64746 (Oct. 30, 2000); 73 Fed. Reg. 56572 (Sept. 29, 2008). Although Clean Water Action's Notice only covers violations of the General Permit as of the September 29, 2008 reissuance date, evidence that the company violated the permit before September 29, 2008 may be relevant to the amount of penalty the court may award for any violations that occurred after that date.

Perri C. Petricca
December 28, 2010
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cc: (by certified mail)

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